

# **Crime Laboratory Commission Meeting**

**April 9, 2009**

**Department of Attorney General**

**150 South Main Street**

**Providence, RI**

**3rd Floor Conference Room**

**11:00 a.m.**

**In attendance were Gerald J. Coyne, Deputy Attorney General, Rhode Island Department of Attorney General; Christopher Cotta, Rhode Island Department of Attorney General; Director Dennis Hilliard, Rhode Island State Crime Laboratory; Dean Ronald Jordan, University of Rhode Island; LeRoy Rose, Rhode Island State Police; Chief George Kelley, RIPCA; Clay Choquette; Nancy Haley; Dr. David Uliss, Rhode Island Department of Health.**

## **I. INTRODUCTION**

### **A. Welcome to Commission Members**

**Deputy Attorney General Coyne on behalf of the Attorney General welcomed Commission members and called the meeting to order at 11:10 a.m. Introductions were made of Commission members.**

### **a. Approve Minutes of November 20, 2008**

**Director Hilliard noted the approval of the November 20, 2008 minutes**

was not on the original agenda. Director Hilliard brought with him a revised agenda noting this and distributed to Commission members. The November 20, 2008 minutes were reviewed by all members, with Clay Choquette making a motion to approve the minutes and Chief Kelley seconding the motion. All members being in favor, the minutes of November 20, 2008 were approved.

## **II. FUNDING**

### **A. Budget FY2009**

Director Hilliard passed out a package to Commission members, which included the FY09 budget. Included were the proposed numbers that were put together in September, with the revised budget to meet the funds available given by the Legislature and funds that were left over from the previous fiscal year. There is \$675,000 appropriated and \$34,000 rolled over for a total of \$709,000 available balance. Also provided were year to date figures. The percentages are as of March 31st, which is three quarters of the year.

Deputy Attorney General Coyne stated with the challenges right now Director Hilliard has done a great job with the budget.

#### **a. Coverdell Grant – FY08**

Director Hilliard explained the Coverdell FY08 monies received was approximately \$29,000, which is being used to pay for the Quality Officer position, which is currently a 28-hour position. Part of the funding is in the FY09 budget under Criminalist I Quality Officer and

the rest is being paid from the Coverdell Grant.

#### **B. Proposed Budget FY2010**

Director Hilliard spoke regarding the Proposed FY10 budget. The only item that was changed from the last meeting was the amount of money that had been allocated for the Department of Health Forensic Science Laboratory to the Department of Public Safety. As this Commission knows, there was a move for the Forensic Laboratory to move to Public Safety. This Commission was also considering the consolidation at the State Crime Laboratory at URI, so within the budget Director Hilliard provided budget notes to that effect.

Director Hilliard requested \$828,546 for the Crime Lab FY10 budget, which Chris Cotta has submitted. Currently expensed is \$709,000 and it is expected to have cost of living increases on July 1st. Director Hilliard also requested making the Quality Officer a full-time position funded through the Laboratory and to bring the clerical position back to full-time, which had been a part-time position this year.

In speaking of the FY10 proposed budget, Director Hilliard mentioned, the notes he made in terms of the parity. If the Laboratories were to consolidate and everyone is working under the same umbrella, there is a discrepancy between what URI people are paid versus what Health Department is paid. URI employees receive tuition waiver, so that is an offset; however, once Forensic Science comes under the

**URI umbrella Director Hilliard would request the salaries of the Crime Lab employees match the salaries of the Forensic Science Lab. His recommendation would be increasing the Crime Lab staff between one and two pay grades, which is approximately \$65,000 towards the 2010 budget. That's not in the \$828,000 that would be separate.**

**Director Hilliard changed the consolidation efforts for what they put in for Forensic Sciences in the Department of Public Safety. In the article that was in the Governor's budget, they budgeted them at just over two million dollars for the year. Director Hilliard understood that to include Forensic Biology, Forensic Drug Chemistry and the Breathalyzer, not Toxicology. The plan was to keep Toxicology under Health to serve the Medical Examiner's office. If you take our current request for \$828,000 plus the \$65,000 for the salaries and the operational cost for the Forensic Laboratories, that's just under three million dollars. Currently the money for Forensic Science is proposed for the Department of Public Safety's budget and the \$828,000 for the Crime Lab is proposed in the Attorney General's budget. This would also include three new positions for the Forensic Science Laboratory.**

**Chief Kelley inquired as to whether the Crime Laboratory is under a union.**

**Director Hilliard stated they are under a union, which is the same parent union as for the Forensic Science Lab. They are both**

**Professional Staff Associations and they're both oversight by the National Education Association, but the Health Department is classified and URI is non-classified, which is the biggest difference between the two.**

**Dean Jordan asked what the proposed solution to that issue would be? Are there statutory protections that would occur if they went unclassified?**

**Director Hilliard stated they would most likely become non-classified but able to maintain their retirement in the state retirement system. Non-classified are year to year because they are on grant funding, depending on how the money is sent to the University. There were discussions as to whether or not it should be funneled through the Attorney General's budget, through DPS or directly to URI. If it were changed directly to URI and become a non-granting position they would become regular employees.**

**Chris Cotta stated they would be advocating the money pass directly through to the University. Budgetarily through the Governor's office there is no control on FTE count. The issue comes up when they reduce our FTE count; the Crime Lab staff is exempt.**

**Director Hilliard responded if normally we would get a federal grant and then be unable to hire people because they are at their FTE maximum, that would be a problem. Therefore an agreement was**

made years ago that FTE's that are considered grant funded would not count towards the state FTE.

Dean Jordan noted it would make sense to put it as a line item at the University.

Director Hilliard noted if you look at the law, the authority is the Commission. The Commission is to take all funds and allocate it to the Laboratory and transfer them where they need to be transferred. Back when they decided they would fully fund the Laboratory they needed an agency that could handle the funds. The University was unwilling at that time, so then Attorney General Violet stepped in and said, send it through my budget, and it has gone through the Attorney General's budget since that time.

Clay Choquette questioned the \$65,000; does that include everybody in the same playing field or are the people who come under the umbrella of URI are then also going to get the bonus of tuition? Would this create another issue between the two groups?

Director Hilliard and Dean Jordan both felt it would not and the only issue would be the money issue.

Deputy Attorney General Coyne noted there are really two issues, one being the compensation package, which would be the money and increase salaries and then the tuition benefit.

**Director Hilliard noted the tuition doesn't come out of the Crime Laboratory budget. It's granted by the University and is a non-cost issue in the budget.**

**Dean Jordan spoke regarding how if it were a line item in the URI budget, the employees could be part of the same PSA down at the University, those union contracts all include the tuition.**

**Clay Choquette was concerned about the Union issue and if all parties would be in agreement.**

**Dean Jordan felt it would be an advantage to them.**

**Chris Cotta questioned the pension issue.**

**Director Hilliard noted pensions are different. If you bring a person who is a classified employee to the University as a non-classified status, they retain their pension benefits. If they choose to do so they can buy out of their state contracts and buy into TIAA/CREF.**

**Dr. Uliss questioned under the Department of Public Safety if they would be classified. Feeling it would become a major concern for a classified employee to become a non-classified employee.**

**Director Hilliard noted the people coming to URI will be non-classified**

but would retain their retirement status as they have now. This is something that will have to be worked out with the University. Director Hilliard felt if there is a need to remain classified then they probably could until that person retires or leaves the position and then the position would be changed to a non-classified position.

Dean Jordan stated they have known this would be an issue and the Human Resources Department wants to make this work.

Deputy Attorney General Coyne noted if this were to happen it would have to be included through legislation. We will have to make sure the people at the State House understand what the Crime Lab suggestions will be. In the interest of keeping it moving forward Dr. Uliss and his people, Director Hilliard and ourselves need to be part of the process. We have a responsibility to make sure that the people who are providing dedicated service get some protection.

Dr. Uliss noted the requirement is they have to inform the union within sixty days of any proposed move, so that does not leave much time.

Deputy Attorney General Coyne noted as much as this is a healthy discussion, there has been a large amount of time talking about consolidations that have never happened, through no fault of the Laboratories. There ends up being a lot of unnecessary anxiety and possibly coming out of this, the next thing we need to do is revisit



with the legislature. We don't want to get people upset and concerned if this was just a comment at a hearing; however, we need to know one way or the other. If they are saying, there are too many budget issues to do it this year and will take more than one year, that will give us an idea of the timeline because as Dr. Uliss said there is a sixty-day window.

Director Hilliard stated Representative Costantino made a comment that he wanted to revisit the URI consolidation issue. At this point in time there is nothing in writing.

Dean Jordan stated we have to make the Finance Committee Chairman understand that it is more than a dollar and cents discussion, it's a people issue. We're willing to work on it, we know it's not going to be easy but we really need to understand if they are serious or not. That kind of conversation from the Commission level to the Finance Committee will be beneficial to Dr. Gifford, to the people in Health and to URI.

Deputy Attorney General Coyne recommended getting a group together to reach out to schedule a meeting with if not somebody on the Finance Committee, then their staff. We need to know the point person and who to work with on this issue. Also, they need to know that if they are serious we are willing to make the commitment to do this. This is a very small part of a very big challenge they have as the Finance Committee has many issues they are addressing.

**Chris Cotta suggested that Director Hilliard contact Mike O'Keefe from the Governor's office.**

**Director Hilliard questioned who the stakeholders are from the Commission.**

**Deputy Attorney General Coyne felt the Commission itself should have somebody involved, the Laboratory with Director Hilliard's expertise, URI and the Department of Health. The employees have a legitimate stake too. Dr. Gifford is the person tasked with getting back to them and out of respect to Dr. Gifford it's not up to us. We as a Committee can offer ourselves to Dr. Gifford and say, we're happy to work with you on this. Dr. Uliss can speak with him and let him know and however he wants to do it, we will be available to sit with him.**

**Dr. Uliss noted that Dr. Gifford is weighing different options right now on how to respond.**

**After further discussion it was decided that Director Hilliard and Dean Jordan will work on getting the FY2010 budget to Dr. Gifford.**

**Deputy Attorney General Coyne stated in recognition to what Dr. Uliss said, there is a relatively short window if this is to be accomplished and we all have to recognize that and when we reach**

out to Dr. Gifford, at some point it will have to become a people driven process. Our job as the Commission to make sure we have a voice in the process.

Director Hilliard mentioned there is a paper trail from Attorney General Lynch, in which he sent a letter dated February 10, 2009, to President Carothers and President Carothers responded by saying that space would be made available for the combined laboratories at URI in Fogarty Hall. According to Dean Jordan it's going to be approximately 37,000 square feet of space. Currently the Crime Laboratory has 10,000 square feet and the Forensic Science Laboratory has approximately 15,000 square feet; however, the Toxicology section would not be coming. It is anticipated the space becoming available in 2011.

Dr. Uliss felt the police chiefs' could be affected by this move. At some point and some level the police chiefs' need to be part of the discussion how to come up with a solution or is it a problem at all. He has had discussions over the last few months about the possibility and they were concerned about traveling to South Kingstown noting the added distance and time.

Chief Kelley stated it has been part of the discussion at the Police Chiefs' Association meetings. Chief Kelley will bring this issue up again at the next Police Chiefs' Association meeting.

**Dean Jordan mentioned this has come up in the past and the Providence Police are the biggest user of the State Crime Lab at URI currently and it doesn't seem to be an issue.**

### **III. LABORATORY STATUS**

#### **A. Laboratory Progress Report – January 1 to December 31, 2008**

**Director Hilliard passed out the Progress Reports for 2008. In 2007 there were 643 cases, in 2008 there were 648 cases.**

**There were increases from Providence and Cranston Police Departments. Forty-three different departments submitted cases to the Laboratory last year, which was the same as the year before. There was an increase in assaults with dangerous weapons, with a major increase in breaking and entering cases and personal property crimes, with a slight decrease in firearms violations, with arson cases approximately the same.**

**There have been five court appearances this year. Various services included lectures to community groups and high schools, professional meetings and tours given of the Crime Laboratory.**

**There is no official quarterly report as of yet, however, Director Hilliard did cull the numbers this morning. The first quarter of 2008 there were 127 cases submitted, this year so far 128 cases have been submitted.**

#### **a. GSR Case Cost Factor**

**Director Hilliard spoke regarding the GSR and the cost factor to URI. GSR cases can't be handled with swabbing from the shooters hands; it is actually done on a microscope. The University has a microscope, which we have been using on a per hour basis. It cost approximately \$1,000 to run a kit, so we've been working with the Attorney General's office to limit the number of kits they need for trial. We are up to date and have transferred \$2,000 to that account and they are handled on a cost per basis right now.**

#### **B. ISO/IEC Accreditation**

**We are undergoing an onsite visit on April 20-21st with people from Forensic Quality Services. We were accredited in 2007; however, each year we have to undergo an inspection. Last year was a paper trail inspection; this year is an onsite visit. This will cost our lab approximately \$8,300.**

#### **C. Consolidation**

**The consolidation issue was talked about earlier during this meeting. Director Hilliard spoke regarding the hearing on Monday before the House Finance Committee, which he attended as an observer. At the end of the meeting Representative Costantino asked if there was someone from URI in the audience. Representative Costantino asked Director Hilliard to the table.**

Representative Costantino's question to Dr. Gifford was why consolidation now and why to the Department of Public Safety? Dr. Gifford's answer was this is where 80% of those facilities sit in other states; they are under control of the Department of Public Safety, State Police or a county police department. Representative Costantino then questioned if they had looked at URI consolidation and his response was they had, but it was too expensive, therefore there was no follow-up.

Representative Costantino then asked Director Hilliard what the issue was. Director Hilliard stated the major issue was a 25% overhead cost which URI had requested. Also, included were additional positions requested by the Department of Health; also included was an additional full time QA officer; an additional tech person, which added another \$100,000 to the project. We came in at five million dollars; however, Director Hilliard told the Chair that it was his understanding that the overhead cost was not an issue any longer. Representative Costantino then suggested Dr. Gifford go back and revisit the URI issue.

#### **D. Systems Updates**

##### **a. NIBIN Update**

Director Hilliard stated due to the retirement of Adel Irizzary last September, we have lost our NIBIN entry person so no entries have been made since August of 2008. The Bureau of BATF was made

aware of this situation and myself, Deputy Attorney General Coyne and others worked with the Rhode Island National Guard requesting their assistance as they had under the Drug Program in 1995.

Michael Ayer from the Rhode Island National Guard has been provided to the Laboratory as a full-time position to train at the Laboratory. He started at the end of January this year and has been training in our policy and procedures and attended a weeklong session for NIBIN training at the FTI facility. He is ready to go on-line as soon as he passes our Protocol and Procedures Examination and can start inputs by the end of April.

Bill Casey came and spoke to the Police Chiefs' Association and wanted to put a meeting together. ATF will call all law enforcement in Rhode Island to attend a meeting at URI on June 3rd to go through the NIBIN System and what a benefit it is to local communities.

Deputy Attorney General noted a need for an MOU. The standard MOU, which we do with the National Guard on behalf of various agencies, is for their drug program. This is actually couched as counter drug support. When we spoke to the National Guard we basically said, as long as you understand what the person is going to be doing. They had no problem with that. They want to keep the MOU as a standard form. That's not unusual, we have other MOU's and do a cover letter that makes any kind of reservations and seems to work very well.

**Director Hilliard stated he has not heard back from them regarding the MOU and will follow-up with the National Guard regarding this matter.**

**b. AFIS Update**

**Director Hilliard noted AFIS continues to be a very useful tool for the Laboratory. We had a cold case hit the other day. Providence had arrested somebody who had never been arrested before, his fingerprints went in the system and he got picked on a case that was in the system for six months, with both departments working together.**

**i. Cogent maintenance costs (anticipated increase in costs)**

**Director Hilliard reminded the Commission that he drafted a letter to David Smith at EMA, which has not gone out as of yet requesting to see if they would be able to help pay for some of the AFIS upkeep.**

**Deputy Attorney General Coyne noted Providence Police had bought their system with some community block grant money years ago. The biggest issue we had was trying to get the system with the Crime Lab, State Police and Attorney General to talk to one another. It didn't make sense for Providence to have AFIS and only be linked to Providence. We now have gotten to the point where it seems to be working.**

**Director Hilliard also mentioned Providence Police maintain their own**



juvenile database, so if you have a juvenile you should check against their database because the Crime Laboratory can't maintain juveniles.

Leroy Rose brought COGENT in and oversaw the whole thing with Deputy Attorney General Coyne being a part of it. We upgraded our equipment by switching from the old system to the new COGENT system. We're connected to Connecticut so we piggyback with them and then if we need to do nationwide it's easy enough to do.

After further discussion it was suggested by Deputy Attorney General Coyne that Director Hilliard contact David Smith at EMA and speak with him directly regarding the funding opportunities. With the Commission's endorsement it was decided that Director Hilliard would contact David Smith.

Director Hilliard notified the Committee members the Justice Commission is now part of the Public Safety and is now known as the Office of Public Safety Grant Administration and he will also contact them for any opportunities.

## **ii. Homeland Security funding (request to D. Smith)**

Director Hilliard is going to request Byrne money to consolidate the storage of digital images. He also felt the State Police would be doing the same. The other thing was to either go for Byrne money or Homeland Security money to provide interoperability between departments. Dr. Uliss looked at this a while back in terms of having

departments be able to meld with the LIMS System so the information needed could be transmitted electronically.

Dr. Uliss stated they are still isolated from the network. There are plans to move them to the network, but for now they have no outside entity.

### **E. Laboratory Personnel**

#### **a. Clerical position**

Paula Bush was hired in December and is currently working approximately 19 hours a week with no benefits. Director Hilliard has requested this position be changed back into a full-time position in the FY10 budget.

#### **b. Quality Officer**

Director Hilliard has recommended this become a full-time position and has accounted for it in the FY10 budget.

#### **c. Staff Salary Upgrades**

Director Hilliard discussed with Commission members staff salary upgrades in the presentation of the FY10 budget.

## **V. NEW BUSINESS**

### **A. National Academy Science Report**

Director Hilliard spoke regarding the National Academy of Science

**Report. Congress tasked the National Academy Science with reviewing Forensic Science in the United States in 2006. They came out with this report two years later, which he previously sent to all Commission members.**

**It's interesting to note that one of the co-chairs on this Commission was Professor Constantine Gatsonis from Brown University. He did not visit the Forensic Science or the Crime Lab. This Commission found severe flaws within the Forensic community in terms of the way laboratory practices are done. They have thirteen recommendations, which Director Hilliard brought with him today.**

**One major issue is to set up a national organization to consolidate all the forensic services that are currently provided by the FBI, ATF. They recommended that the training these organizations do go into one agency and provide training for all the laboratories throughout the United States.**

**There was also a recommendation to pull any of these organizations that are part of public safety out of public safety. This issue was raised at the House Finance Committee by the defense league noting the recommendation is not have them under a law enforcement agency so we would be taking a step backwards. The Committee is saying, it provides, if not an actual bias, a perception of bias.**

**Another recommendation was not letting people testify unless they**

are certified. They want to get rid of the coroner systems and standardize police stations that are doing fingerprint work. They noted people need to become accredited by ISO standards and become certified latent print examiners. That would be a burden on the local police and maybe the answer would be for some of the smaller departments not do that so they would send all the cases down to URI, so that could add a burden to the lab in the future. I don't see that happening with Providence or State Police because they may have the resources to make that happen. It's not mandatory but they would like to see it made mandatory, so I don't know what Congress is going to do with this recommendation.

Clay Choquette questioned if this would mean even to the point of going to the crime scene and lifting prints at a crime scene. Also wondering if there would be distinctions between someone who is going and lifting latents versus someone who is going to do the identification. So the local departments or smaller agencies in the State could actually have people certified in lifting latents and then those would be sent to the Lab for identification purposes.

Director Hilliard noted to become a certified crime scene analyst you have to have some sort of accreditation; however, it doesn't have to be ISO accreditation. If you have accreditation then you have set protocols and procedures that you would follow regarding that accreditation; however, the person who is doing the work needs to be educated and certified to do the work by another agency. URI has a

basic class, which would be the first step, then you would have to join IAI, apply for accreditation under their criteria and part of their criteria is that you have taken some sort of crime scene education class and then IAI would provide the certification. This is just a recommendation right now, but if Congress were to take this issue up and legislate this then this will have to be addressed.

Dr. Uliss felt you need to include the comments of the American Society of Crime Laboratory Directors, who commented on the NAS Report. Their point was that this is not about where we sit as an agency; it's about the quality of the analysis, whether they have training, whether they are partly trained, and whether the laboratory in which they work is accredited and has the proper controls. It's not so much to be removed from the laboratories out of law enforcement agencies, but the issue is to get those laboratories accredited and make sure the people who are being hired are qualified.

Director Hilliard agreed and said that at the Police Chiefs' meeting, if the Forensic Laboratories were to be taken over by Department of Public Safety, the quality of their work isn't changing, it's perception rather than reality. Some defense attorneys may argue before the Judge that this person works for a police organization.

Deputy Attorney General Coyne stated we are beyond questioning the quality of the analysis and questioning whether they work for the Department of Health or Public Safety. We need to keep in

**perspective there's a lot of people that raise a lot of issues. In New Hampshire for years they have had their Medical Examiner within the Attorney General's office, it might not be a great system on paper but when you ask them, does it cause problems, they say, no everybody accepts the people that do the work are scientists and know what they are doing. I'm more concerned with getting the best people there and supporting them. If independence comes at the cost of a lack of resources I'd rather have the people be in a place where they are supported. We've seen enough agencies that are very functional and get moved into another place and all of a sudden they're constantly fighting for support.**

**Deputy Attorney General stated he will follow-up with Dr. Gifford and Dr. Uliss.**

#### **B. Items from the Floor**

**There being no items from the floor the meeting was adjourned.**

**The meeting was adjourned at 12:10 p.m.**

**Minutes taken and transcribed by:**

**Teresa A. Dorrance, Department of Attorney General**